



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 01 2019

US EPA RECORDS CENTER REGION 5



563341

REPLY TO THE ATTENTION OF:

SR-6J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Louis A. Guzzetti, Jr.
President & CEO
Spinnaker Coatings
518 East Water Street
Troy, Ohio 45373

Cindy Jernigan
Kimberly-Clark Worldwide, Inc.
Global Sustainability
1400 Holcomb Bridge Road, 200/4
Roswell, GA 30076

Re: Follow-up Request for Information Pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)
East Troy Contaminated Aquifer Superfund Site in Troy, Ohio
SSID: B5EN

Dear Mr. Schiller and Ms. Jernigan:

This letter seeks your cooperation in providing information and documents relating to contamination at the East Troy Contaminated Aquifer Superfund Site (the Site or the ETCA Site). The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675, commonly known as "CERCLA" or "Superfund", gives the U.S. Environmental Protection Agency the authority to, among other things: (a) assess contaminated sites; (b) determine the threats to human health and the environment posed by each site; and (c) clean up those sites in the order of the relative threats posed by each.

EPA is responding to the release or threat of release of hazardous substances, pollutants or contaminants at the Site and is seeking your assistance to obtain additional information concerning the origin/management of the soil contamination at an area referred to as "Exposure Area 6" ("EA-6"), as defined in the September 20, 2018, Interim Record of Decision. EA-6 is located in the western portion of the main Spinnaker parking lot. EA-6, which is currently under asphalt, consists of subsurface soils contaminated with elevated levels of trichloroethane that pose an unacceptable non-cancer hazard to exposed future residents. The primary route of

exposure is via inhalation of vapors from subsurface soils that are brought to the surface during intrusive excavation or landscaping activities. *See* Figure 1 for the location of EA-6.

You are receiving this request for information as a current and/or former owner or operator of property where hazardous substances, pollutants or contaminants are known to exist in soils and groundwater. EPA believes that you might have information that may assist the agency in its efforts.

Information Request

Under Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), EPA has broad information gathering authority that allows EPA to require persons to furnish information or documents relating to:

- (a) The identification, nature and quantity of materials which have been or are generated, treated, stored or disposed of at a vessel or facility or transported to a vessel or facility;
- (b) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility; and
- (c) Information relating to the ability of a person to pay for or to perform a cleanup.

While EPA seeks your cooperation in this investigation, compliance with the Information Request is required by law. Please note that false, fictitious or fraudulent statements or representations may subject you to civil or criminal penalties under federal law.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures outlined in Enclosure A, including the requirement for supporting your claim for confidentiality. If you have information about other parties who may have information that may assist the agency in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted within the time frame noted below.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq.*

Instructions on how to respond to the questions in Enclosure C to this document are described in Enclosure A. Your response to this Information Request should be mailed to:

Shari Kolak, Remedial Project Manager
U.S. Environmental Protection Agency, Region 5
Superfund Division – Remedial Response Branch 1
Remedial Response Section 1, Mail Code SR-6J
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

We encourage you to give this matter your immediate attention and request that you provide a complete and truthful response to this Information Request and enclosed questions (Enclosure C) within 30 calendar days of your receipt of this letter.

Please do not hesitate to contact Shari Kolak at (312) 886-6151 or at kolak.shari@epa.gov if you would like EPA to consider an extension of time to respond to this information request, or if you have any questions about the information being requested, the history of the Site, or the nature of the environmental conditions at the Site. If you have any legal questions, please contact Stuart P. Hersh, Associate Regional Counsel, at (312) 886-6235 or at hersh.stuart@epa.gov.

We appreciate and look forward to your prompt response to this Information Request.

Sincerely,

3/1/2019

X 

Timothy Fischer, Acting Chief
Remedial Response Branch 1
Signed by: TIMOTHY FISCHER

Enclosures

- A. Instructions
- B. Definitions
- C. Questions
- D. Declaration

Figure 1 – EA-6 Location Map

cc: Scott Glum, Ohio EPA

bcc: Stuart P. Hersh, ORC (C-14J)
Adrian Palomeque, Community Involvement Section (SI-6J)
Todd Quesada, RMD (SRC-7J)

Enclosure A
Information Request
East Troy Contaminated Aquifer Site

INSTRUCTIONS

1. Answer Each Question Completely. You must provide a separate answer to each question and subpart set forth in this Information Request. Incomplete, evasive, or ambiguous answers shall constitute failure to respond to this Information Request and may subject you to the penalties set out in the cover letter.
2. Response Format and Copies. Provide the responses to this Information Request and copies of all requested documents either electronically or on paper (hard copy). Your submission, whether electronic or hard copy, must include an index that lists all the responsive documents provided, and that indicates where each document is referenced in the written response, and to which question or questions each document is responsive.

Any documents you determine to be Confidential Business Information (CBI) must be segregated out and submitted in a separate folder or on a separate compact disc (CD). These documents must be clearly marked as "Confidential Business Information".

If providing your response electronically, it must be submitted on a CD in Portable Document Format (PDF) and comply with the following requirements:

- (a) CBI and personal privacy information (PII) should be provided on separate media (e.g., a separate CD) and marked as such to ensure information is appropriately handled.
 - (b) All documents originally smaller than 11 by 17 inches can be submitted electronically; any documents originally larger than 11 by 17 inches must be submitted in hard copy.
 - (c) Electronic PDF files must be text-searchable.
 - (d) The document index must clearly identify any single electronic document which has been separated into multiple electronic files (because of size limitation or otherwise) and each component file that comprises the full document.
3. Number Each Answer. Number each answer with the number of the question to which it corresponds.
 4. Provide the Best Information Available. You must provide responses to the best of your ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered noncompliance with this Information Request.

5. Identify Information Sources. For each question, identify all persons and documents you relied on for your answer.

6. Confidential Information. You must provide the information requested even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to 42 U.S.C. §§ 9604(e)(7)(E) and (F), and 40 C.F.R. § 2.203(b). All information claimed to be confidential should be contained on separate sheet(s) and should be clearly identified as "trade secret", "proprietary" or "company confidential". Your confidentiality claim should be supported by the submission of information consistent with 40 C.F.R. Part 2. Information covered by a confidentiality claim will be disclosed by EPA only to the extent, and only by means of the procedures, provided in 40 C.F.R. §§ 2.201-2.311. If no such claim accompanies the information received by EPA, it may be made available to the public by EPA without further notice to you.

You should also provide a redacted version of the same document that removes all CBI and PII from the document. This redacted version of the document should remove all information that you claim is CBI or PII. Since all the CBI and PII is removed, this redacted version is not subject to the procedures of 40 C.F.R. Part 2. EPA may make this redacted version available to the public without further notice to you.

7. Disclosure to the EPA Contractor. Information that you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. § 2.310(h), even if you assert that all or part of it is confidential business information. EPA may provide this information to its contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information that you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within twenty (20) business days of receiving this Information Request.

8. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy, should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information". You should note, however, that unless prohibited by law, EPA may disclose this information to the general public without further notice to you.

9. Objections. While you may object to certain questions in this Information Request, you must provide responsive information notwithstanding those objections. To object without providing responsive information may subject you to the penalties set out in the cover letter.

10. Privilege. If you claim that any document responsive to this Information Request is a communication for which you assert that a privilege exists for the entire document, identify (see Definitions) the document and provide the basis for asserting the privilege. For any document for which you assert that a privilege exists for a portion of it, provide the portion of the document for which you are not asserting a privilege, identify the portion of the document for which you are asserting the privilege, and provide the basis for such an assertion. Please note that regardless of

the assertion of any privilege, any facts contained in the document that are responsive to the Information Request must be disclosed in your response.

11. Declaration. You must complete the enclosed declaration, in hard copy with an original signature, certifying the accuracy of all statements in your response.

Enclosure B
Information Request
East Troy Contaminated Aquifer Site

DEFINITIONS

Terms not defined here shall have their ordinary meaning, unless such terms are defined in Section 101 of CERCLA, 42 U.S.C. § 9601, or Volume 40 of the Code of Federal Regulations, in which case such statutory or regulatory definitions shall apply.

The following definitions apply to the following words as they appear in this Information Request:

1. The term "you" or "Respondent" means the addressee of this Request, together with the addressee's agents, employees, and contractors.

2. The term "document" and "documents" means any method of recording, storing or transmitting information. "Document" includes, but is not limited to:

(a) writings of any kind, including, but not limited to, any of the following:

- i. letters, memoranda, fax transmittals;
- ii. meeting minutes, telephone records, notebooks;
- iii. agreements and contracts;
- iv. reports to shareholders, management, or government agencies;
- v. transportation manifests;
- vi. copies of any document;

(b) any film, photograph, or sound recording on any type of device;

(c) any blueprints or drawings; and

(d) attachments to, or enclosures with, any document.

3. The term "identify" means, with respect to a natural person, to set forth: (a) the person's full name; (b) present or last known business and home addresses and telephone numbers; and (c) present or last known employer (include full name and address) with job title, position or business.

4. The term "identify" means, with respect to a corporation, partnership, business trust or other entity, to set forth: (a) its full name; (b) complete street address; (c) legal form (e.g., corporation, partnership); (d) the state under whose laws the entity was organized; and (e) a brief description of its business.

5. The term "identify" means, with respect to a document, to provide: (a) its customary business description (e.g., letter, invoice); (b) its date; (c) its number if any (e.g., invoice or purchase order number); (d) the identity of the author, addressee, and/or recipient; and (e) a summary of the substance or the subject matter. Alternatively, Respondent may provide a complete copy of the document.
6. The term "material" or "materials" means any and all raw materials, commercial products, wastes, chemicals, substances or matter of any kind.
7. The "period being investigated" and "the relevant time period" means 1979 to present, unless otherwise stated.
8. The term "property" means any interest in real or personal property whatsoever, including fee interests, leases, licenses, rental and mineral rights.
9. The "Site" means any or all property or area described as the East Troy Contaminated Aquifer Superfund Site located in the City of Troy, Miami County, Ohio.
10. The term "waste" or "wastes" means and includes, but is not limited to, trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, and pollutants or contaminants, whether solid, liquid, or sludge.
11. The term "business activities" means all actions, endeavors, ventures, or financing arrangements related in any manner whatsoever to the use and development of the Site, including surveying, sampling, grading, documentation, photography, demolition, construction, and waste disposal, and sales.

Enclosure C
Information Request
East Troy Contaminated Aquifer Site

QUESTIONS

1. Identify all persons consulted in the preparation of the answers to these Information Requests.
2. Identify all documents consulted, examined or referred to in the preparation of the answers to these Requests, and provide copies of all such documents.
3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons.
4. Identify all persons having knowledge or information about the generation, transportation, treatment, disposal or other handling of hazardous substances by you, your contractors or by prior owners and/or operators.
5. With respect to the Spinnaker western parking lot including the EA-6 area, identify:
 - (a) the date(s) of construction;
 - (b) how it was constructed, and identify the origin of the soils/materials used for the subbase underneath the asphalted parking lot including the EA-6 area; and
 - (c) all analyses or tests and results of analyses of the soil that was used for the subbase and the soil below the subbase.
6. Identify whether soils from another location on the Spinnaker Coatings/former Brown Bridge property was used as backfill/subbase for the EA-6 area. If so, identify where these soils were located on the property and provide all analysis or tests and results of the soil that was used for the EA-6 backfill/subbase.
7. Was the asphalt ever repaired in the EA-6 area and if so, when, and what was the origin of the soils/materials used as the backfill/subbase at the EA-6 area.
8. Was there ever a leak, spill or release or discharge of hazardous materials into the subsurface soils at the EA-6 area? If the answer to the preceding question is anything but an unqualified "no," identify:
 - (a) When each such release occurred;

- (b) How each release occurred;
- (c) The amount of each hazardous substances, pollutants or contaminants released;
- (d) Where each such releases occurred;
- (e) Any and all activities undertaken in response to each such release or threatened release, including the notification of any agencies or governmental units about the release;
- (f) Any and all investigations of the circumstances, nature, extent or location of each release or threatened release including, the results of any soil, water (ground and surface) or air testing undertaken; and
- (g) All persons with information relating to these releases.
- (h) All analyses or tests and results of analyses of the hazardous materials released or discharged into the surface/subsurface soils at the Spinnaker EA-6 area.

9. Identify the dates, locations and actions involving the management, excavation or removal of contaminated EA-6 soils at the Site, and involving the management and containment of contaminated EA-6 soils which were not excavated and removed from the Site.

- (a) Provide a copy of all plans, reports, sampling analytical data, manifests and related documents regarding the response to the preceding question.

10. Provide a list of all property and casualty insurance (e.g., comprehensive general liability, environmental impairment) and specify the insurer, policy, effective dates and per occurrence policy limits for each policy for the time period specified in this Information Request. In lieu of providing this information, you may submit complete copies of all relevant insurance policies.

11. In acquiring the property, were there any conditions, agreements, or commitments provided by the prior owner in this transaction, including but not limited to an insurance policy, bond, or indemnity agreement related to contamination existing at the Site?

If the answer to the preceding question is anything but an unqualified "no," identify:

- (a) Each condition, agreement and commitment provided by the prior owner, and
- (b) Each procedural obligation related to each such condition, agreement and commitment provided by the prior owner.

In lieu of providing this information, you may submit complete copies of all relevant documents containing each condition, agreement and commitment.

Enclosure D
Information Request
East Troy Contaminated Aquifer Site

DECLARATION

I declare under penalty of perjury that I am authorized to respond on behalf of the Respondent and that the foregoing is complete, true, and correct.

Executed on _____, 20__

Signature

Type or Print Name

Title



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Mr. Louis A. Guzetti, Jr.
President & CEO
Spinnaker Coatings
518 E. Water Street
Troy, Ohio 45373



9590 9402 4074 8092 0667 38

2. Article Number (Transfer from service label)

7018 0680 0002 2759 6858

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Courtney

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Courtney McConaughy

C. Date of Delivery

delivery address different from item 1? ☐ Yes

/ES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise®
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

USPS TRACKING #



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 4074 8092 8667 38

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

Shari Kolak, RPM
U.S. EPA Region V
77 W. Jackson (SR-6J)
Chicago, IL 60604



U.S. Postal Service™
CERTIFIED MAIL® RECEIPT

Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

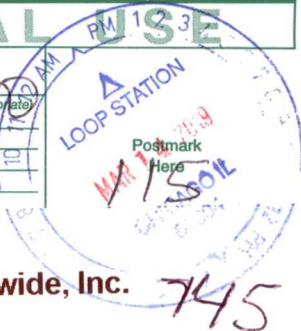
Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- | | |
|--|----|
| <input type="checkbox"/> Return Receipt (hardcopy) | \$ |
| <input type="checkbox"/> Return Receipt (electronic) | \$ |
| <input type="checkbox"/> Certified Mail Restricted Delivery | \$ |
| <input type="checkbox"/> Adult Signature Required | \$ |
| <input type="checkbox"/> Adult Signature Restricted Delivery | \$ |

Cindy Jernigan
Kimberly- Clark Worldwide, Inc.
Global Sustainability
1400 Holcomb Bridge Road, 200/4
Roswell, GA 30076



7018 0680 0002 2759 6865

Certified Mail service provides the following benefits:

- A receipt (this portion of the Certified Mail label).
- A unique identifier for your mailpiece.
- Electronic verification of delivery or attempted delivery.
- A record of delivery (including the recipient's signature) that is retained by the Postal Service™ for a specified period.

Important Reminders:

- You may purchase Certified Mail service with First-Class Mail®, First-Class Package Service®, or Priority Mail® service.
- Certified Mail service is *not* available for international mail.
- Insurance coverage is *not* available for purchase with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.
- For an additional fee, and with a proper endorsement on the mailpiece, you may request the following services:
 - Return receipt service, which provides a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, *Domestic Return Receipt*; attach PS Form 3811 to your mailpiece;

for an electronic return receipt, see a retail associate for assistance. To receive a duplicate return receipt for no additional fee, present this USPS®-postmarked Certified Mail receipt to the retail associate.

- Restricted delivery service, which provides delivery to the addressee specified by name, or to the addressee's authorized agent.
- Adult signature service, which requires the signee to be at least 21 years of age (not available at retail).
- Adult signature restricted delivery service, which requires the signee to be at least 21 years of age and provides delivery to the addressee specified by name, or to the addressee's authorized agent (not available at retail).
- To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.

IMPORTANT: Save this receipt for your records.

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT

Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- | | | |
|--|----|--|
| <input type="checkbox"/> Return Receipt (hardcopy) | \$ | |
| <input type="checkbox"/> Return Receipt (electronic) | \$ | |
| <input type="checkbox"/> Certified Mail Restricted Delivery | \$ | |
| <input type="checkbox"/> Adult Signature Required | \$ | |
| <input type="checkbox"/> Adult Signature Restricted Delivery | \$ | |

Mr. Louis A. Guzetti, Jr.
President & CEO
Spinnaker Coatings
518 E. Water Street
Troy, Ohio 45373

Postmark
Here

CHICAGO IL
40909

Certified Mail service provides the following benefits:

- A receipt (this portion of the Certified Mail label).
- A unique identifier for your mailpiece.
- Electronic verification of delivery or attempted delivery.
- A record of delivery (including the recipient's signature) that is retained by the Postal Service™ for a specified period.

Important Reminders:

- You may purchase Certified Mail service with First-Class Mail®, First-Class Package Service®, or Priority Mail® service.
- Certified Mail service is *not* available for international mail.
- Insurance coverage is *not* available for purchase with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.
- For an additional fee, and with a proper endorsement on the mailpiece, you may request the following services:
 - Return receipt service, which provides a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, *Domestic Return Receipt*; attach PS Form 3811 to your mailpiece;

for an electronic return receipt, see a retail associate for assistance. To receive a duplicate return receipt for no additional fee, present this USPS®-postmarked Certified Mail receipt to the retail associate.

- Restricted delivery service, which provides delivery to the addressee specified by name, or to the addressee's authorized agent.
- Adult signature service, which requires the signee to be at least 21 years of age (not available at retail).
- Adult signature restricted delivery service, which requires the signee to be at least 21 years of age and provides delivery to the addressee specified by name, or to the addressee's authorized agent (not available at retail).
- To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.

IMPORTANT: Save this receipt for your records.